

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

A.F. P., ET AL.,

Plaintiffs,

v.

UNITED STATES OF AMERICA

Defendant.

CASE NO. 1:21-CV-00780-ADA-EPG

SCHEDULING CONFERENCE ORDER

Initial Disclosures: October 13, 2022

Nonexpert
Discovery Cutoff: November 17, 2023

P - January 16, 2024

Expert Disclosure: D - March 1, 2024

Rebuttal
Expert Disclosure: April 1, 2024

Expert
Discovery Cutoff: May 1, 2024

Dispositive Motion
Filing Deadline: June 20, 2024

Settlement Conf.: Not Set

Mid-Discovery Conf: Date: February 22, 2023
Time: 10:30 am
Dept: 10

Pretrial Conf.: Date: December 2, 2024
Time: 1:30 p.m.
Dept: 1

Trial: Date: February 4, 2025
(10 days estimate) Time: 8:30 a.m.
Dept. 1

This Court conducted a scheduling conference on August 23, 2022. Counsel Susan Baker appeared telephonically on behalf of Plaintiffs. Counsel David Shelledy appeared personally and Kelli Taylor appeared telephonically on behalf of Defendant. Pursuant to Fed. R. Civ. P. 16(b), this Court sets a schedule for this action.

I. Amendment To The Parties' Pleadings

The parties are advised that the filing of motions and/or stipulations requesting leave to amend the pleadings does not imply good cause to modify the existing schedule. Fed. R. Civ. P. 16 (b) (4); *see also Johnson v. Mammoth Recreations, Inc.*, 975 F. 2d 604, 609 (9th Cir. 1992). Moreover, any request for amendment under Fed. R. Civ. P. 15(a) must not be: (1) prejudicial to the opposing party; (2) the product of undue delay; (3) proposed in bad faith; or (4) futile. *See Foman v. Davis*, 371 U.S. 178, 182 (1962).

II. Fed. R. Civ. P. 26(a)(1)

Initial disclosures are due on **October 13, 2022**.

III. Discovery Cutoffs And Limits

All non-expert discovery shall be completed no later than **November 17, 2023**. Plaintiffs' initial expert witness disclosures shall be served no later than **January 16, 2024**. Defendant's initial expert witness disclosures shall be served no later than **March 1, 2024**. Rebuttal expert witness disclosures shall be served no later than **April 1, 2024**. Such disclosures must **be made pursuant to Fed. R. Civ. P. 26(a)(2)(A), (B) and (C), and shall include all information required thereunder**. In addition, Fed. R. Civ. P. 26(b)(4) and Fed. R. Civ. P. 26(e) specifically apply to discovery relating to expert witnesses and their opinions. Each expert witness must be fully prepared to be examined on all subjects and opinions included in the disclosures. Failure to comply with these requirements will result in the imposition of appropriate sanctions, including the preclusion of the expert's testimony, or of other evidence offered through the expert.

All expert discovery shall be completed no later than **May 1, 2024**. The parties are advised that motions to compel must be filed in advance of the discovery deadlines so that the Court may grant effective relief within the allotted discovery time. A party's failure to have a discovery dispute heard sufficiently in advance of the discovery cutoff may result in denial of the

1 motion as untimely.

2 A Mid-Discovery Status Conference is set for **February 22, 2023, at 10:30 a.m.** in
 3 Courtroom 10, before Magistrate Judge Erica P. Grosjean. The parties are directed to file a joint
 4 report, of up to five (5) pages, outlining the status of the case, any additional discovery still
 5 planned, potential for settlement, and any other issues pending that would benefit from the Court's
 6 assistance/direction. The parties shall file the report one full week prior to the conference, and
 7 email a copy, in Word format, to epgorders@caed.uscourts.gov. If the parties are appearing
 8 telephonically, each party shall dial 1 (888) 251-2909 and enter access code 1024453.

9 **IV. Pretrial Motion Schedule**

10 **A. *General Information Regarding Filing Motions***

11 The parties are advised that unless prior leave of the Court is obtained before the filing
 12 deadline,¹ *all* moving and opposition briefs or legal memoranda, including joint statements of
 13 discovery disputes, filed in civil cases before Magistrate Judge Grosjean, shall not exceed twenty-
 14 five (25) pages. Reply briefs by the moving party shall not exceed ten (10) pages. These page
 15 limits do not include exhibits. When scheduling motions (other than discovery motions) the
 16 parties shall comply with Local Rule 230.

17 Counsel or *pro se* parties may appear and argue motions by telephone, provided a request
 18 to so do is made to Michelle Rooney, Magistrate Judge Grosjean's Courtroom Deputy (unless
 19 prior permission has been given by the judge), no later than five (5) court days before the noticed
 20 hearing date. Requests can be made by emailing Ms. Rooney at mrooney@caed.uscourts.gov. If
 21 the parties are appearing telephonically, each party shall dial 1 (888) 251-2909 and enter access
 22 code 1024453.

23 **1. *Informal Discovery Conference***

24 In order to file a discovery motion pursuant to Fed. R. Civ. P. 37 or 45, a party must
 25 receive permission from the Court following an informal telephonic discovery dispute
 26 conference. Non-parties challenging a subpoena under Fed. R. Civ. P. 45 are not required to
 27 request an informal conference before filing a motion. A party wishing to schedule such a

28 ¹ Parties may seek leave through a telephonic conference among all parties and the Court, or by short motion.

1 conference should contact chambers to receive available dates. The Court will schedule the
2 conference as soon as possible, taking into consideration the urgency of the issue.

3 Prior to the conference, the parties shall simultaneously file an Informal Discovery
4 Dispute Letter Brief, outlining their positions regarding the dispute. Such briefs shall be no
5 longer than three pages single-spaced, and may include up to five pages of exhibits. The parties
6 are also directed to email their briefs to epgorders@caed.uscourts.gov. The Court will provide
7 the date and time the Letter Briefs are due at the time the conference is scheduled.

8 At the time of conference, the parties shall dial 1 (888) 251-2909 and enter access code
9 1024453. The Court will not issue a formal ruling at that time. Nevertheless, the Court will
10 attempt to provide guidance to the parties to narrow or dispose of the dispute. If no resolution can
11 be reached without formal motion practice, the Court will authorize the filing of a formal
12 discovery motion.

13 **2. Discovery Motions**

14 If a motion is brought pursuant to Fed. R. Civ. P. 37 or 45, after receiving permission
15 from the Court, the parties must prepare and file a Joint Statement re: Discovery Disagreement
16 (“Joint Statement”) as required by Local Rule 251.² In scheduling such motions, Magistrate
17 Judge Grosjean may grant applications for an order shortening time pursuant to Local Rule
18 144(e). If a party does not obtain an order shortening time, the notice of motion must comply
19 with Local Rule 251.

20 A Joint Statement, not to exceed twenty-five (25) pages, must be filed seven (7) calendar
21 days before the scheduled hearing date. Prior to the filing of the Joint Statement, the parties must
22 meet and confer as set forth in Local Rule 251(b). In addition to filing the Joint Statement
23 electronically, a copy of the Joint Statement in Word format must be sent to Magistrate Judge
24 Grosjean’s chambers via email to epgorders@caed.uscourts.gov. Courtesy copies for any
25 pleading in excess of twenty-five pages (25) (including exhibits) shall also be delivered to
26 chambers via US mail, or hand delivery, at the time the Joint Statement is electronically filed.
27 Motions may be removed from the Court’s calendar if the Joint Statement is not timely filed, or if

28 ² Certain limited exceptions from filing the required Joint Statement are outlined in Local Rule 251(e).

courtesy copies are not timely delivered.

B. Dispositive Motions

All Dispositive Pre-Trial Motions shall be served and filed no later than **June 20, 2024**, and will be heard before District Court Judge Ana de Alba. In scheduling such motions, the parties shall comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.

1. Motions for Summary Judgment or Summary Adjudication

Prior to filing a motion for summary judgment or motion for summary adjudication, the parties are ordered to meet and confer, in person or by telephone, to discuss the issues to be raised in the motion. **In addition to complying with the requirements of Local Rule 260, the parties must prepare a Joint Statement of Undisputed Facts, which identifies all relevant facts subject to agreement by all parties.** The moving party is responsible for filing the joint statement. In the notice of motion, the moving party shall certify that the parties have met and conferred as ordered above, or set forth a statement of good cause for the failure to do so.

V. Settlement Conference

A Settlement Conference has not been scheduled at this time.

VI. Pretrial Conference

The pretrial conference is set for **December 2, 2024, at 1:30 p.m.** in Courtroom 1, before District Court Judge Ana de Alba. The parties are directed to file a joint pretrial statement that complies with the requirements of this Court's Local Rule 281. In addition, the joint pretrial statement should include a brief factual summary and an agreed upon neutral statement of the case. An additional copy of the joint pretrial statement, carefully prepared and executed by all counsel, shall be electronically filed in CM/ECF and shall be e-mailed in Word format to Judge de Alba's chambers at adaorders@caed.uscourts.gov.

The parties' attention is directed to this Court's Local Rules 281 and 282. This Court will insist upon strict compliance with these rules. At the pretrial conference, the Court will set deadlines to file motions *in limine*, final witness lists, exhibits, jury instructions, objections, and other trial documents.

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1 **VII. Trial Date**

2 The trial is set for **February 4, 2025, at 8:30 a.m.** in Courtroom 1 before the Honorable
3 Ana de Alba, United States District Court Judge.

4 A. This is a **BENCH** trial.

5 B. Counsels' Estimate of Trial Time: **10 days**.

6 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
7 California, Rule 285.

8 **VIII. Request for Bifurcation, Appointment of Special Master, or other Techniques to**
9 **Shorten Trial**

10 Bifurcation has not been requested.

11 **IX. Related Matters Pending**

12 There is no related litigation.

13 **X. Compliance with Federal Procedures**

14 All counsel are expected to familiarize themselves with the Federal Rules of Civil
15 Procedure and the Local Rules of the Eastern District of California and to keep abreast of any
16 amendments thereto. The Court requires strict compliance with these rules. Sanctions will be
17 imposed for failure to follow the rules as provided in both the Federal Rules of Civil Procedure
18 and the Local Rules of the Eastern District of California.

19 **XI. Effect Of This Order**

20 This order represents the Court and the parties' best estimated schedule to complete this
21 case. Any party unable to comply with the dates outlined in this order shall immediately file an
22 appropriate motion or stipulation identifying the requested modification(s).

23 *The dates set in this Order are considered to be firm and will not be modified absent a*
24 *showing of good cause, even if a stipulation to modify is filed.* Stipulations extending the
25 deadlines contained herein will not be considered unless they are accompanied by affidavits or
26 declarations with attached exhibits, where appropriate, that establish good cause for granting the
27 requested relief. Due to the impacted nature of the civil case docket, this Court disfavors requests
28 to modify established dates.

Failure to comply with this order shall result in the imposition of sanctions.

IT IS SO ORDERED.

Dated: **September 16, 2022**

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE